IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.9702 OF 2004

Mr Tukaram Waman Patil & Anr. .. Petitioners

Vs

Dy. Manager,

Kalyan Dombivali Municipal Corp

and ors. .. Respondents.

Mr N.N.Patil, for the petitioners.

Mr A.S.Rao, for R.Nos 1 to 3.

Mr R.M.Patne, AGP, for R.No.4.

CORAM : V.G.PALSHIKAR & D.B.BHOSALE,JJ.

DATE : 5th September, 2005.

PC:

1. Heard learned counsel for the parties.

2. By this petition, the petitioners have made the following prayers.

(a) This Hon’ble Court be pleased to issue a writ

> of mandamus or a writ in the nature of mandamus or any other writ order or direction under Article 226 of the Constitution of India directing the respondent nos 1 , 2 and 3 herein to forthwith appoint the petitioners on the posts of Bus drivers as per their selection.
>
> (b) Pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to restrain the respondent nos 1,2 and 3 by the order of injunction from acting upon the advertisement dated 23-8-2004, at Exhibit-E to the petition.
>
> (c) Pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to restrain the respondent nos 1,2 and 3 by an order of injunction, from appointing anyone to the posts of Bus drivers without appointing the petitioners on the priority basis."

Notice why the petition be not admitted, was issued and an affidavit in reply has been filed. The first affidavit at page 27 states as under:

> "... .....I say that in case the petitioners are willing the respondents are ready to reinterview them and appoint the successful candidates on contractual basis and consolidated wages. Hence, this affidavit."

The respondents, therefore, showed their willingness to reconsider the cases of the petitioners even on contractual basis. Then, another affidavit is filed on 3.9.2005 where the respondent-Corporation says as under

:

> "I further say that the Transport Committee has decided to follow the reservation system even to the appointment on contract basis also. Therefore, in case the respondents require any drivers the respondents will give preference to the present petitioners."

In view of these replies and the fact that the petitioners have no vested right in appointment inspite of selection, we see no reason to keep this petition pending. It is accordingly disposed of.

(D.B.BHOSALE, J.) **(V.G.PALSHIKAR, J.)**